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Serving Adams, Columbia, Marquette & Sauk Counties

STATE REPRESENTATIVE ♦ 42ND ASSEMBLY DISTRICT

Testimony for AB 729
The Homeowner Protection Act
Assembly Committee on Housing
April 20th, 2010

As a result of the nationwide economic recession, home foreclosures in Wisconsin have reached an all-time high. Wisconsin saw 30,624 foreclosures in 2009, a 23% increase from 2008 levels. More families across Wisconsin are still facing the prospect of losing their homes due to a mixture of job loss, predatory lending, and declining property values. Since foreclosures depend primarily on home value and homeowner employment, it is estimated that if national unemployment numbers dip to 10% we could see 1.4 million additional foreclosures in 2010.

AB 729 helps courts assure that mortgage modification alternatives through the federal Home Affordable Modification Program (HAMP) are made available to borrowers before foreclosure actions can be taken.

Under the bill, before a bank that is a participant of HAMP can foreclose on a homeowner, they must mail a written notice to the borrower stating that the loan is in default, that foreclosure action may begin, the reason the mortgage is in default, the action the homeowner must take to cure the default, and the contact information for the mortgage servicer and federally-approved organizations that offer credit counseling services to homeowners.

The bill also requires HAMP participant lenders to file an affidavit with the court before foreclosure actions can commence. The affidavit must include whether the loan in question is owned, securitized, or guaranteed by Fannie Mae, Freddie Mac, or Ginnie Mae, and if the homeowner is a participant of a federal mortgage modification program.

The court must determine whether the facts of the affidavit are correct and then they may issue a judgment on continuing the foreclosure action, or if the court determines that the loan may be eligible for a modification and it has not been attempted, then the court may decide to stay the foreclosure action until the program's requirements are completed.

If the loan undergoes modification, then the bank must report back to the court every 45 days. If the homeowner abides by the loan modification, the court may dismiss the foreclosure action.

AB 729 also makes changes to current law regarding tenant notifications in the event of a foreclosure action. The bill requires a notice to be sent at least thirty days after a foreclosure action has commenced, and requires the notice to include information on the tenant's rights and obligations. The notice obligation is not considered to be fulfilled until the notice is sent by certified and first-class mail.

Additionally, tenants in a property subject to a foreclosure action are allowed to remain in their lease for its duration, or for up to 2 months, and the purchaser of the property must fulfill all landlord obligations.

The Homeowner Protection Act was discussed in-depth by the Speaker's Taskforce on Preventing Home Foreclosures, and this bill was supported by many members of the task force. We have worked through many revisions with AB 729, and have worked with partners in the banking industry and homeowner advocates in developing the final language.

I am confident that the balance we have struck here is one that will help promote best practices among Wisconsin banks while helping Wisconsin homeowners and borrowers to remain in their homes.

I ask for your support in recommending passage of AB 729.